

AMENDED IN ASSEMBLY JULY 21, 2003
AMENDED IN ASSEMBLY JUNE 26, 2003
AMENDED IN ASSEMBLY JUNE 11, 2003
AMENDED IN SENATE APRIL 29, 2003
AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 739

**Introduced by Senator Ducheny
(Coauthor: Senator Chesbro)**

February 21, 2003

An act to add and repeal Section 10553.3 of the Welfare and Institutions Code, relating to tribal health.

LEGISLATIVE COUNSEL'S DIGEST

SB 739, as amended, Ducheny. Children's services: Indian tribes.

Existing law requires each county to provide child welfare services. Existing law also requires each county to provide payments on behalf of eligible children in foster care pursuant to the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program. Both the provision of child welfare services programs and the AFDC-FC program are subject to regulations adopted by the State Department of Social Services.

Existing law authorizes the Director of Social Services, in accordance with federal law, to enter into agreements with Indian tribes to delegate to the Indian tribe county responsibilities for either or both the provision of child welfare services and the provision of payments pursuant to the AFDC-FC program.

This bill would, until January 1, 2007, authorize the director to establish a 3-year pilot project with the Washoe Tribe of California and Nevada to explore the feasibility of permitting Indian tribes, ~~as defined,~~ to provide child welfare services to a broad population of Indian children and families within Indian reservations or rancherias.

This bill would require that, prior to the implementation of the pilot project, the director establish an implementation workgroup, as specified.

This bill would require child welfare services allocation methodologies for these contracts to be developed by the workgroup, in consultation with, and agreed to by, the department, the affected county, and the participating Indian tribe.

This bill would also provide that implementation of agreements pursuant to its provisions that would delegate county responsibilities for child welfare services or assistance payments shall not be construed to impose liability on, or to require indemnification by, the participating county or the state for any act or omission by an officer, agent, or employee of the participating tribe.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to enact
2 legislation to establish a three-year pilot project to determine the
3 feasibility of allowing Indian tribes to provide child welfare
4 services to a broad population of Indian children within Indian
5 reservations or rancherias. It is further the intent of the Legislature
6 to preserve the ability of the county affected by agreements
7 reached pursuant to this project to appropriately serve children and
8 families.

9 SEC. 2. Section 10553.3 is added to the Welfare and
10 Institutions Code, to read:

11 10553.3. (a) The director may establish a three-year pilot
12 project to determine the feasibility of allowing Indian tribes to
13 provide child welfare services pursuant to an agreement under
14 Section 10553.1 to a broad population of Indian children and
15 families residing on tribal reservations or rancherias.

16 (b) For purposes of this section, ~~the following definitions shall~~
17 ~~apply:~~

1 ~~(1) “Indian” shall have the same meaning as defined in Section~~
2 ~~1603(c) or 1679(b) of Title 25 of the United States Code.~~

3 ~~(2) “Indian child” shall have the same meaning as a person who~~
4 ~~is under the age of 18 years and is among those individuals~~
5 ~~described in Section 1603(c) or 1679(b) of Title 25 of the United~~
6 ~~States Code.~~

7 ~~(3) “Indian tribe” shall have the same meaning as used in~~
8 ~~accordance with Section 1603(c) or 1679(b) of Title 25 of the~~
9 ~~United States Code.~~

10 (c) For purposes of this section, the pilot project shall be limited
11 to the Washoe Tribe of California and Nevada *and shall allow for*
12 *the provision of child welfare services to Indian children who are*
13 *Washoe members, are eligible for Washoe membership, or are*
14 *residing on Washoe tribal lands.*

15 (d) Prior to the implementation of this pilot project, the director
16 shall establish an implementation workgroup. Members shall
17 include representatives of the tribe and county that would be
18 impacted by the pilot project. The purpose of the implementation
19 workgroup shall be to establish guidelines for defining the service
20 population, the allocation methodology, and the roles and
21 responsibilities of all parties impacted by the pilot project.

22 (e) An agreement entered into pursuant to this section shall be
23 governed by Section 10553.2, as added by Section 5 of Chapter
24 724 of the Statutes of 1995. An agreement pursuant to this pilot
25 project shall be based on a clear delineation of the respective
26 responsibilities of the tribe and the affected county, and an
27 agreement on the allocation methodology required by Section
28 10553.2.

29 (f) Implementation of an agreement pursuant to this section
30 that would delegate county responsibility for child welfare
31 services or AFDC-FC assistance payments to a tribe shall not be
32 construed to impose liability on, or to require indemnification by,
33 the participating county or the state for any act or omission by an
34 officer, agent, or employee of the participating tribe.

35 (g) Nothing in this section shall be construed to prohibit the
36 director from entering into agreements authorized by Section
37 10553.1.

- 1 (h) This section shall remain effective only until January 1,
- 2 2007, and as of that date is repealed, unless a later enacted statute,
- 3 that is enacted before January 1, 2007, deletes or extends that date.

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